

TENNESSEE TITLE VI COMPLIANCE PROGRAM



REPORT TO GOVERNOR AND GENERAL ASSEMBLY Reporting Period FY July 1, 2013 - June 30, 2014

Issued by:

TENNESSEE HUMAN RIGHTS COMMISSION

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**TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE**

ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY, SUITE 100
NASHVILLE, TENNESSEE 37243-1219
(615) 741-5825 FAX (615) 253-1886
www.tn.gov/humanrights

LETTER TO THE GOVERNOR AND GENERAL ASSEMBLY

September 19, 2014

The Honorable Bill Haslam
Governor State of Tennessee
Nashville, Tennessee 37243

Members of the General Assembly
State of Tennessee Legislative Plaza
Nashville, Tennessee 37243

Dear Governor Haslam and Members of the General Assembly:

Transmitted herewith is the Tennessee Title VI Compliance Program Annual Report. This report was prepared pursuant to the requirements of Section 4-21-203, *Tennessee Code Annotated* and covers the period of July 1, 2013 through June 30, 2014.

The Tennessee Human Rights Commission (Commission) is honored to be chosen as the central coordinating agency for Title VI compliance statewide. In our country's current climate of economic and fiscal challenges, compliance with federal laws and regulations is critical to maintaining necessary funding for programs and services throughout the state.

Since 2009, when Title VI monitoring authority was transferred to the Commission, we have worked diligently to develop guidelines, policy, rules and provide technical assistance and training to Title VI personnel statewide. This report provides a summary of the services and accomplishments of the Title VI Compliance Program. We will continue to ensure that each executive branch department and agency promotes present and future compliance with Title VI requirements.

Thank you for the opportunity to serve.

Sincerely,

A handwritten signature in black ink, reading "Beverly L. Watts".

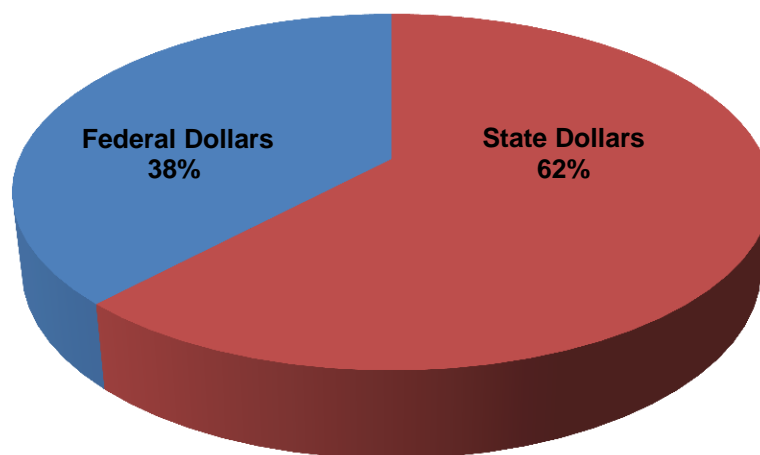
Beverly L. Watts
Executive Director

I. INTRODUCTION

This report covers Title VI Compliance Program activities during fiscal year (FY) July 1, 2013 - June 30, 2014 for compliance efforts and outcomes of each executive branch department and agency in the state of Tennessee. Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination on the basis of race, color or national origin under any program or activity receiving Federal financial assistance (FFA). Federal financial assistance includes the following: 1) an award, contract or grant of money; 2) loans, below fair market value or subsidies; and 3) training.

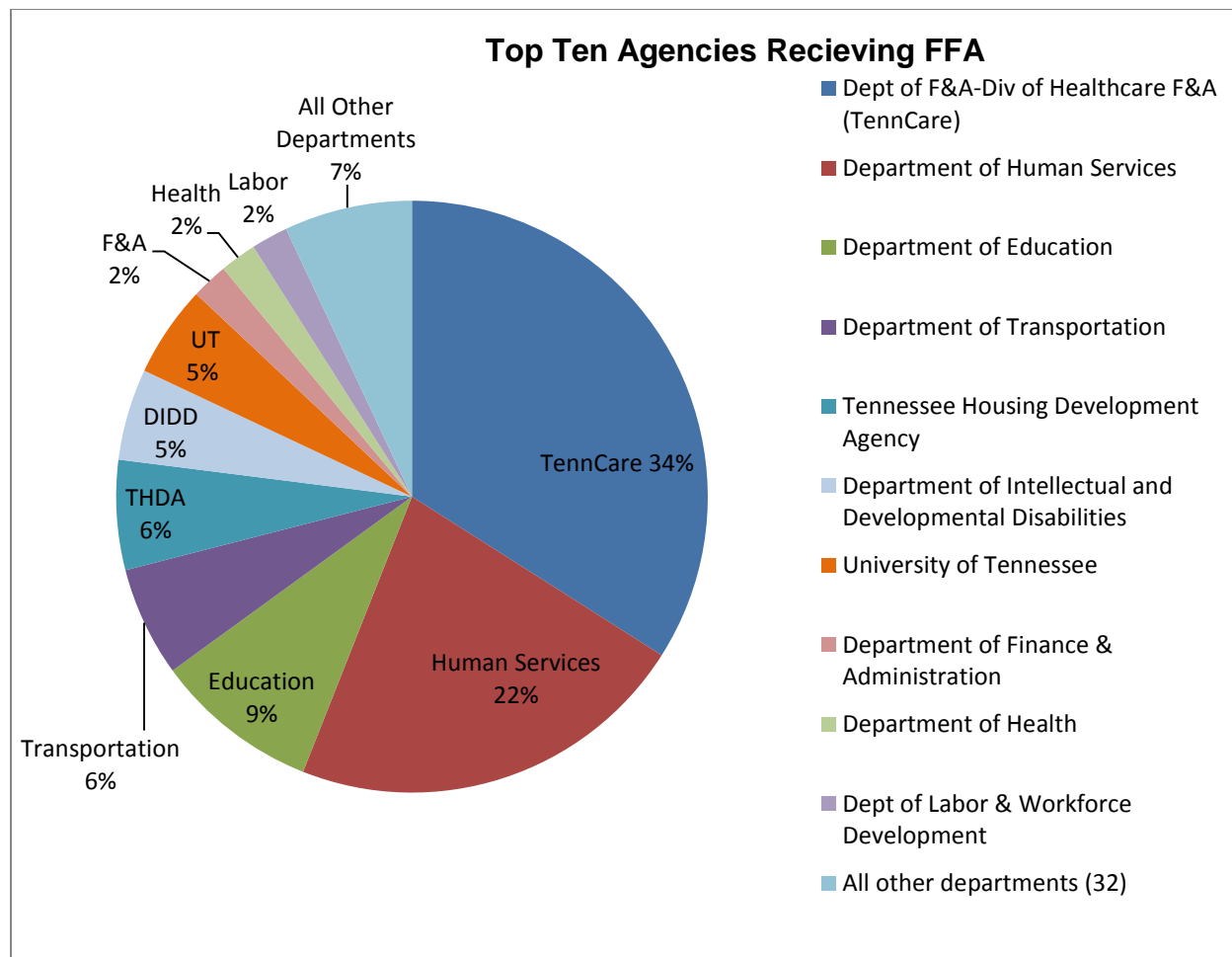
Title VI compliance requirements apply to any state department or agency that receives FFA. Examples of programs and activities covered by Title VI include food stamps, driver licenses, parks and recreation, child care, Medicaid, transportation, roads/highways and education. During FY July 1, 2013 - June 30, 2014, 42 executive branch departments reported the receipt of federal funds totaling \$12,457,714,195.46 which represents 38%, of Tennessee's 2013-2014 state budget of \$32,644,596,200 as cited by the Department of Finance and Administration in "The Budget: Fiscal Year 2013-2014" (*Administration Amendment as Filed*)

Tennessee Budget Composition FY2013-2014



A comprehensive statewide compliance program prevents the risk of loss of federal funding due to discriminatory practices and is critical to maintaining high standards and ensuring continued compliance. Of the \$12.5 billion in federal funds, 10 out of 42 departments account for approximately 93% of FFA in Tennessee, respectively: TennCare - 34%; Human Services - 22%; Education - 9%; Transportation-6%; Housing and Development Agency - 6%; University of Tennessee – 5%; Health -2%, Finance and Administration – 2%; Department of Health-2%; and

Department of Labor and Workforce Development – 1%. The remaining 32 departments account for approximately 7% of total federal dollars received statewide.



Department	Federal Dollars Reported	Total % of Federal Dollars
Dept of F&A-Div of Healthcare F&A (TennCare)	\$4,231,010,400.00	34%
Department of Human Services	\$2,786,084,800.00	22%
Department of Education	\$1,165,393,778.00	9%
Department of Transportation	\$778,925,310.46	6%
Tennessee Housing Development Agency	\$711,861,593.00	6%
Department of Intellectual and Developmental Disabilities	\$609,203,500.00	5%
University of Tennessee	\$592,706,989.07	5%

Department of Finance & Administration	\$257,917,800.00	2%
Department of Health	\$248,133,100.00	2%
Dept of Labor & Workforce Development	\$221,573,200.00	2%
All Other Departments (32)	\$35,564,366.99	7%
TOTAL	12,457,714,195.46	100%

A. History, Purpose and Scope

On August 9, 2002, Governor Don Sundquist issued Executive Order 34 which created the Title VI Compliance Commission. Executive Order 34 assigned the duties and responsibilities for Title VI monitoring to the 13-member Title VI Compliance Commission. Governor Sundquist appointed nine of the 13 members as required by the executive order. All of these appointments expired in October 2008 and remained unfilled.

On June 23, 2009, Governor Phil Bredesen signed legislation transferring the duties of the Title VI Compliance Commission to the Tennessee Human Rights Commission, effective July 1, 2009. This legislation grants the Commission the authority to verify that all state governmental entities comply with the requirements of Title VI. This responsibility includes the establishment and development of guidelines for a comprehensive statewide policy to ensure compliance by the executive branch of state government. Under State of Tennessee Public Acts, known as the Tennessee Human Rights Act (Tenn. Code Ann. §4-21-203), the duties of the Tennessee Human Rights Commission (Commission) include but are not limited to:

- reviewing current Title VI monitoring and enforcement procedures as reflected by federal and state statutes, rules, regulations, programs, services, and budgetary priorities;
- defining and establishing the components, guidelines, and objectives of a comprehensive state policy to ensure and promote present and future compliance with Title VI requirements;
- serving as the central coordinating agency for executive branch departments and agencies for technical assistance, consultation, and resources to encourage and assist compliance with the requirements of Title VI;
- auditing, reviewing, evaluating and reporting periodically on Title VI compliance efforts and outcomes for each executive branch department and agency;

- investigating allegations of noncompliance with Title VI; and,
- reporting annually to the Governor and the Tennessee General Assembly concerning the Commission's activities, findings, and recommendations.

The Commission hired its first Title VI Compliance Director in November of 2009 and began to develop rules and guidelines to establish a uniform approach that would assist executive branch departments in creating and maintaining effective compliance programs. This objective was accomplished through the Department of State's rulemaking hearing process. Public rulemaking hearings were held across the state in Nashville, Knoxville and Jackson for public review and comment. The Commission appeared before the Tennessee General Assembly Government Operations Committee on January 24, 2011 concerning the proposed rules for the Title VI Compliance Program. The Government Operations Committee unanimously voted for Title VI Compliance Program Rules passage and granted an effective date of February 13, 2011. In 2010 the Compliance Program held the first statewide training of Title VI coordinators and began processing public complaints related to Title VI.



The Title VI Compliance Program now dedicates itself to the following:

- Acting as a clearinghouse for Title VI complaints;
- Conducting compliance reviews of those agencies under our authority;
- Directing corrective action procedures to remedy shortcomings found in those agencies practices or procedures;
- Conducting annual training of all Title VI Coordinators;
- Collecting and reviewing implementation plans from all recipient agencies;
- Providing policy guidance for recipient agencies regarding Title VI compliance.

B. Discriminatory Practices

Departments that receive FFA must provide the public with fair and equal access to all of its programs and activities in a nondiscriminatory manner. Specific discriminatory actions are prohibited under Title VI. A department that is a recipient of federal funds may not, directly or through contractual or other arrangements, on the basis of race, color or national origin:

- Deny an individual any disposition, service, financial aid, or benefit provided under the program;
- Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
- Subject an individual to segregation or separate treatment in any matter related to the receipt of any disposition, service, financial aid, or benefit under the program;
- Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program;
- Treat an individual differently from others in determining whether such person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program;
- Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford such person an opportunity to do so which is different from that afforded others under the program; or,
- Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

II. GOALS, OBJECTIVES & ACCOMPLISHMENTS

Implementation Plans

A major component of the Title VI Compliance Program involves implementation plan review. The Commission conducted training on July 23, 2013 for 75 Title VI personnel and department heads representing 53 departments or divisions concerning the duties and responsibilities of the Title VI Compliance Program, implementation plan guidelines and the obligation of executive branch departments to submit implementation plans to the Commission by October 1 annually. Implementation plans include a report of compliance activities undertaken by the state department or agency for the previous fiscal year (e.g. FY2012-2013) and its plans for compliance for the current fiscal year.

The Commission received and reviewed 42 implementation plans from departments statewide. The review analyzed several areas of compliance, to include whether departments train staff on Title VI, Limited English Proficiency (LEP) policies

and procedures, data collection and the monitoring of subrecipients. Implementation plans were forwarded back to the departments for revision after an initial review and comment phase. Upon completion of the implementation plan review process, the Commission issued a "Notice of Final Findings" to 42 departments. Findings and outcomes from the review are included in Section IV of this report.

Policy Guidance

The Commission has continued to accomplish its goals of providing ongoing policy guidance concerning compliance with Title VI. In addition to the implementation plan review, the Commission provided guidance on Limited English Proficiency (LEP) policies at a Title VI Symposium hosted by the University of Tennessee Office of Equity and Diversity on September 19, 2013.

On-site Compliance Reviews

One of the responsibilities of the Tennessee Human Rights Commission ("Commission") is to verify that all state governmental entities comply with Title VI of the Civil Rights Act of 1964 ("Title VI"). According to the Tennessee Human Rights Act (Tenn. Code Ann. §4-21-203), the Commission is authorized to periodically and systematically audit, review, evaluate and report on Title VI compliance efforts and outcomes for each state department and agency. The on-site compliance reviews are conducted to determine the extent to which an agency or state entity is in compliance with Title VI as it relates to program objectives, complaint procedures and referral process, and the actual execution for processing complaints. This review also serves as a mechanism for the Commission to provide technical assistance and make recommendations regarding corrective action, where appropriate.

During this fiscal year THRC completed one On-Site Compliance Review. The review was conducted at the Tennessee State Museum. Preliminary findings from the compliance review have been completed and are currently under review.

In an On-site Title VI Compliance Review of the Tennessee Department of Agriculture that concluded in May of 2013, the THRC identified seven areas of deficiency in the department's Title VI program. Those areas included Federal Assurances, Complaint Procedures, Data Collection and Program Delivery, Limited English Proficiency, Monitoring and Subrecipients, Title VI Training, and Public Notice and Outreach. As a result of the deficient program areas a corrective action schedule was issued on December 18, 2013 to bring TDOA into further compliance with state and federal Title VI requirements. During this fiscal year, the THRC reviewed, monitored, and approved the measures taken by the department to resolve the findings. On April 8, 2014 the Commission determined that TDOA had completed all of the necessary corrective actions and is now in compliance with Title VI.

Investigations

One of the duties of the Commission is to investigate allegations of non-compliance with Title VI at state agencies and departments. In October 2012, the Title VI Compliance Program accepted for investigation a complaint against the Tennessee Department of Education alleging intentional discrimination relative to the termination of a personal services contract and inequity in the number of personal services contracts awarded to African-American contractors as compared to non-minority contractors. The investigation was completed on November of 2013. The Department of Education was found to be in compliance.

On April 23, 2014 the Title VI Compliance Program for accepted for direct investigation a complaint against the Rutherford County Chancery court. That investigation is still underway.

III. COMPLAINTS

Any person alleging discrimination on the basis of race, color or national origin under any program or activity receiving FFA must be filed within 180 days of the alleged discriminatory conduct. Complaints may be filed either with the Commission or directly with the department, or its subrecipient, that is responsible for the alleged discriminatory conduct. Any person may file a complaint directly with the federal department or agency that provides funding to any state department in Tennessee.

A. Complaints Received by the Commission: July 1, 2013 – June 30, 2014

During the period covering July 1, 2013 - June 30, 2014, the Title VI Compliance Program received 354 inquiries; 294 of the inquiries were non-jurisdictional to Title VI, 60 of the inquiries were accepted as complaints; 40 complaints were closed and 20 complaints remain open. Twenty six complaints from the previous fiscal year were also closed. These 60 complaints were assigned to 6 departments and agencies for investigation. Complaints ranged from allegations of discriminatory practices by state employees to the denial of services under specific, federally funded programs and activities.

Complaints that may be jurisdictional under Title VI are typically referred to the executive branch department that administers the program or activity referenced in the complaint. All departments must inform the Commission of whether a referral is opened for investigation, provide status reports and copy the Commission on correspondence to complainants related to complaint closure. In some instances allegations were jurisdictional to the Human Rights Commission, but were not valid under Title VI. In those instances, the investigation is assigned to investigators in the appropriate divisions of the Commission (i.e. Housing or Employment).

The Commission will not consider a complaint that is referred to another department as closed until it receives written notification from the department that the complaint has been resolved. Inquiries that are not covered under Title VI and are not otherwise jurisdictional to the Commission are forwarded to the relevant department for review and action where appropriate.

There were 59 complaints received and referred by the Commission to 6 state departments and agencies.

Complaints Received and Referred by the Commission July 1, 2013 – June 30, 2014			
Departments	Complaints Filed	Total Cases Closed	Total Inventory of Cases
Corrections	50	30	20
Human Services	2	2	0
Board of Regents	2	2	0
Human Rights Commission (other divisions)	2	2	0
Commerce and Insurance	1	1	0
TennCare	1	1	0
TOTAL	60	40	20

B. Complaints Received by Other Departments: July 1, 2013-June 30, 2014

The total number of complaints received by departments statewide is determined by the data reported in each department's implementation plan. According to the data provided in the implementation plans, individuals filed complaints with 14 out of 42 or 33% of the departments receiving federal funds. The chart below summarizes the complaints received directly by the departments during this reporting period.

Complaints Received Directly by State Departments and Reported in their Implementation Plans: July 1, 2012 - June 30, 2013			
Departments	Total Number of Title VI Complaints Filed	Complaints Closed	Total Inventory of Cases
Administrative Office of the Courts	1	1	0
Alcoholic Beverage Commission	1	1	0
Children's Services	2	2	0
Correction	846	501	345
Education	10	9	1
TennCare	90	90	0
Health	7	5	2
Human Services	7	6	1
Safety	1	1	0
Board of Regents	29	29	0
Aging and Disability	1	1	0
UT	13	11	2
Total Complaints Received Statewide	1011	660	351

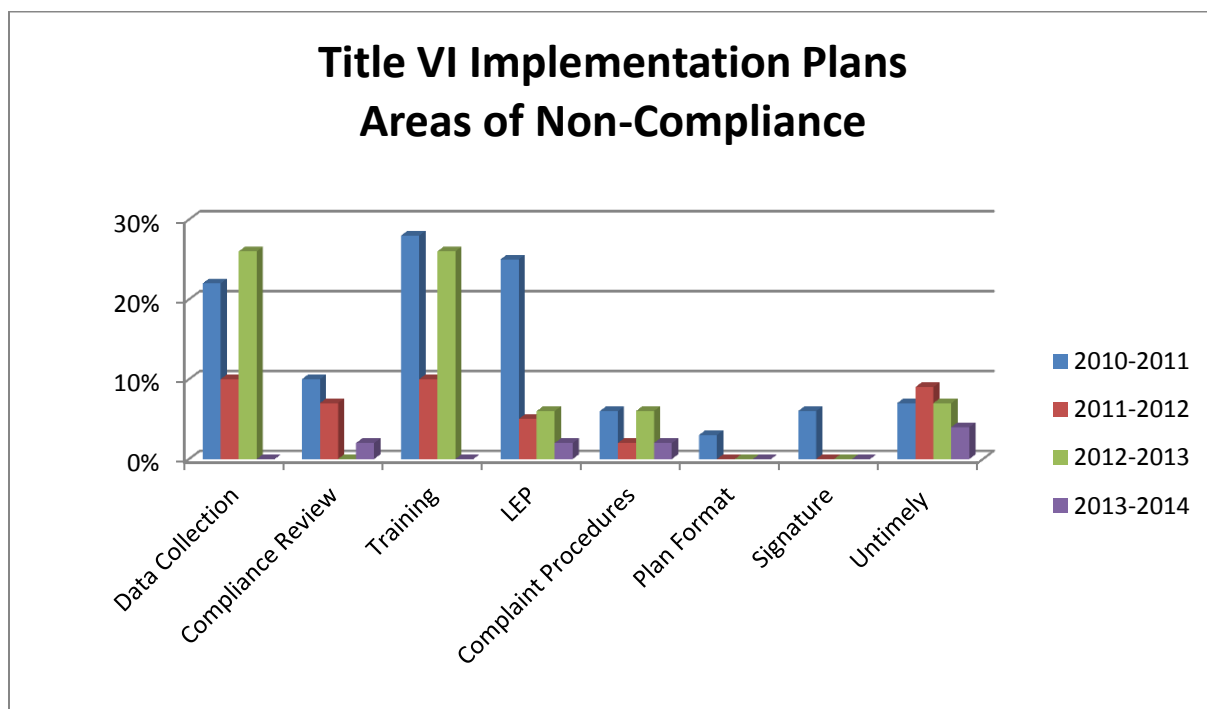
IV. IMPLEMENTATION PLANS

The Commission is responsible for the development of an implementation plan to be utilized by state governmental entities subject to the requirements of Title VI. A department's implementation plan must consist of the following sections: an overview; a description of the federal programs or activities; the organization of the Civil Rights Office and duties of the Civil Rights Coordinator; data collection and analysis, including total number of complaints received; definitions; discriminatory practices; Limited English Proficiency (LEP); complaint procedures; compliance review of subrecipients; compliance/noncompliance reporting; Title VI training plan; public notice and outreach; evaluation procedures of Title VI implementation; and responsible officials.

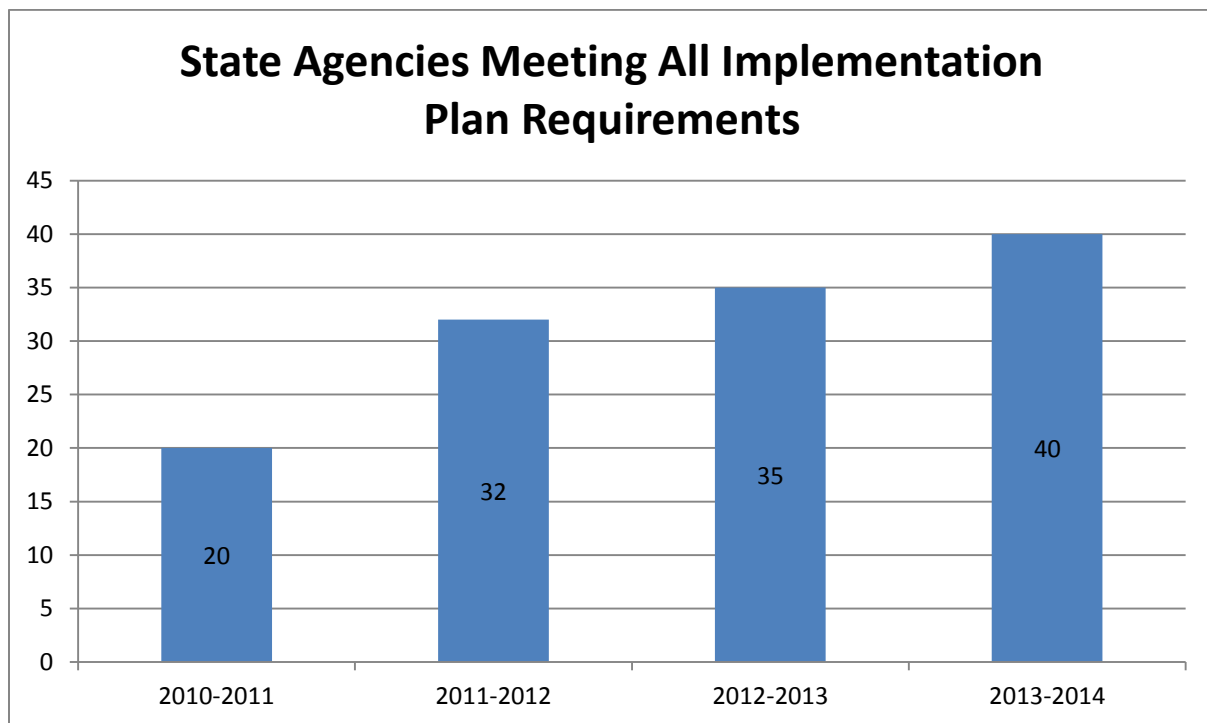
A total of 42 implementation plans were referred by the Commission. One agency was not required to submit a plan as it did not receive FFA for the reporting period. Listed in the chart below is a summary of THRC findings regarding the agency plans.

SUMMARY OF FINAL FINDINGS FOR 2012 TITLE VI IMPLEMENTATION PLANS	
Number of state agencies submitting Implementation Plans	42
Number of agencies not required to submit Implementation Plan	1
Percentage of state agencies receiving a finding	5%
Number of state agencies receiving a finding	2
Number of agencies with untimely submission of Implementation Plan	2
Number of agencies with no findings	40
Number of agencies with one (1) finding	1
Number of agencies with three (3) findings	0
Number of agencies with five (5) findings	1
Number of agencies not responding to THRC initial review and request for additional information	0
Number of agencies providing response to final findings	0
Number of agencies receiving repeat findings	1

The chart below illustrates this fiscal year's most common areas of non-compliance as compared to the three previous fiscal years.



The chart below illustrates this year's rate of agency implementation plan compliance as compared to the three previous fiscal years.



Based on the review, two of 42 plans were untimely or received after the October 1 due date. The following 40 out of 42 departments listed below, or 95%, were found to be in compliance with the guidelines and requirements.

In Compliance

Administrative Office of the Courts	Department of Human Services
Alcoholic Beverage Commission	Department of Labor and Workforce
Arts Commission	Development
Board of Parole	Department of Mental Health and
Commission on Aging and Disability	Substance Abuse Services
Commission on Children and Youth	Department of the Military
Department of Agriculture	Department of Revenue
Department of Children's Services	Department of Safety
Department of Commerce and Insurance	Department of State
Department of Correction	Department of Transportation
Tennessee State Museum	Tennessee District Attorney General
Department of Education	Conference
Department of Economic and Community	District Public Defenders Conference
Development	Tennessee Board of Regents
Department of Environment and	Tennessee Bureau of Investigation
Conservation	Tennessee Community Services Agency
Department of Finance and Administration	Tennessee Human Rights Commission
Department of Intellectual and	Tennessee Regulatory Authority
Developmental Disabilities	Tennessee State Veteran's Homes Board
TennCare	Tennessee Wildlife Resources Agency
Department General Services	Treasury Department
Department of Health	Department of Veterans Affairs
Department of Human Resources	

Findings were issued to 2 of 42 departments, or 4%. There was one department that received one finding; and one department that received five findings. Please refer to the Appendix for a more detailed summary of the 2013-2014 Implementation Plan Review Findings.

The following is an overview of the findings for each department that was cited as non-compliant. Each department is followed by the date that the Commission received the plan, whether the submission was timely or untimely filed, the Commission's finding(s), and the departmental response and Commission's comments, where applicable, to the relevant guideline item.

Non-compliance with 5 Findings

University of Tennessee

Implementation Plan Submitted: 10/7/2013

Findings:

- 1. Did not submit Implementation Plan by October 1st pursuant to TCA § 4-21-203, agency plans are due to the Commission by October 1 of each fiscal year.**
- 2. Did not include a breakdown of language encountered throughout each educational institution during FY 2013-2013**
- 3. Did not indicate in its Plan that complaints can be filed with the Tennessee Human Rights Commission.**
- 4. Did not include statement that subrecipients or contractors of UT will make any compliance report available in Section 10.**
- 5. Did not describe how the University evaluates its access to programs and activities by beneficiaries.**

Commission Comments: This is the second year that there were findings against the University. In FY2012-2013 the University did respond and took corrective action. The University of Tennessee did not respond to the findings of this fiscal year.

Non-compliance with 1 Finding

Tennessee Student Assistance Corporation

Implementation Plan Submitted: 10/02/2013

Findings:

- 1. Did not submit its Title VI Implementation Plan by October 1st pursuant to TCA § 4-21-203, agency plans are due to the Commission by October 1 of each fiscal year.**

Commission Comments: The Agency missed the deadline by only one day and there were no substantive concerns with their Title VI policies.

Note:

The Tennessee Department of Education was granted a brief extension due to a sudden change in their Title VI staff. Their Implementation plan was received on October 7, 2013 but was not designated untimely due to this extension.

APPENDIX

SUMMARY OF FY 2013-2014 IMPLEMENTATION PLAN REVIEW FINDINGS

TENNESSEE DEPARTMENTS AND AGENCIES	RECEIPT DATE	UNTIMELY RECEIPT	FINDINGS
DEPARTMENTS WITH 5 FINDINGS			
University of Tennessee	10/7/2013	✓	<p>Did not submit Title VI Implementation Plan by October 1st.</p> <p>Did not include a breakdown of languages encountered throughout each educational institution during FY 2012-2013.</p> <p>Did not indicate in its Plan that complaints can be filed with the Tennessee Human Rights Commission.</p> <p>Did not include statement that subrecipients or contractors of UT will make any compliance report available in Section 10.</p> <p>Did not describe how the University evaluates its access to programs and activities by beneficiaries.</p>
DEPARTMENTS WITH 4 FINDINGS			
DEPARTMENTS WITH 3 FINDINGS			
DEPARTMENTS WITH 2 FINDINGS			
DEPARTMENTS WITH 1 FINDING			
Tennessee Student Assistance Corporation	10/2/2013	✓	<p>Timely Submission: did not submit its Title VI Implementation Plan by October 1st pursuant to TCA § 4-21-203, agency plans are due to the Commission by October 1 of each fiscal year.</p>
AGENCIES THAT DID NOT RESPOND TO INITIAL REVIEW AND REQUEST FOR ADDITIONAL INFORMATION			
University of Tennessee	10/7/2013	✓	
DEPARTMENTS WITH NO FINDINGS			
Administrative Office of the Courts	9/30/2013		• no findings
Alcoholic Beverage Commission	10/1/2013		• no findings
Arts Commission	9/30/2013		• no findings
Board of Parole	10/1/2013		• no findings
Commission on Aging & Disability	10/1/2013		• no findings
Commission on Children & Youth	9/27/2013		• no findings
Department of Agriculture	9/30/2013		• no findings

Department of Children Services	10/1/2013		• no findings
Department of Commerce & Insurance	10/1/2013		• no findings
Department of Correction	9/30/2013		• no findings
Tennessee State Museum	10/1/2013		• no findings
Department of Education	10/7/2013	approved late	• no findings
Department of Economic & Community Development	9/30/2013		• no findings
Department of Environment & Conservation	10/1/2013		• no findings
Department of Finance & Administration	9/27/2013		• no findings
Department of Intellectual and Developmental Disabilities	10/1/2013		• no findings
Dept of F&A-Div of Healthcare F&A (TennCare)	9/26/2013		• no findings
Department of General Services	10/1/2013		• no findings
Department of Health	9/16/2013		• no findings
Department of Human Resources	10/1/2013		• no findings
Department of Human Services	10/1/2013		• no findings
Dept of Labor & Workforce Development	9/27/2013		• no findings
Dept of Mental Health & Substance Abuse Services	10/1/2013		• no findings
Department of the Military	9/27/2013		• no findings
Department of Revenue	10/1/2013		• no findings
Department of Safety	9/30/2013		• no findings
Department of State	9/24/2013		• no findings
Department of Transportation	10/1/2013		• no findings
District Attorney Generals Conference	09/26/2013		• no findings
District Public Defender's Conference			Agency did not receive FFA during FY 2012-2013

Tennessee Board of Regents	10/1/2013		• no findings
Tennessee Bureau of Investigation	9/30/2013		• no findings
Tennessee Community Services Agency	10/1/2013		• no findings
Tennessee Higher Education Commission	9/30/2013		• no findings
Tennessee Housing Development Agency	10/12/2013		• no findings
Tennessee Human Rights Commission	9/18/2013		• no findings
Tennessee Regulatory Authority	10/1/2013		• no findings
Tennessee State Veteran's Homes Board	10/1/2013		• no findings
Tennessee Wildlife Resources Agency	9/24/2013		• no findings
Treasury Department	9/30/2013		• no findings
Department of Veteran's Affairs	9/27/2013		• no findings